THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.5420 OF 2005

Dated: 06-02-2006

Between

Smt. G. UshaRani W/o. G. Rambabu,

R/o. D.No.5-3-116, Mission Hospital

Road, Near Muthyalamma Temple,

Khammam, Khammam District.

…PETITIONER

AND

LIC Housing Finance Limited,

Area Office, H.No.2-5-8,

Nakkalgutta, Old Bus Depot Road,

Hanamkonda, Warangal District.

…RESPONDENT

ORDER:

Petitioner seeks a Writ of Mandamus to declare the action of the respondent in seeking to effect sale of her house bearing No.5-3-116, Mission Hospital Road, Church Compound, Khammam, Khammam District high handedly without following the legal procedure including the procedure under Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interests Act, 2002 (for short 'the Act') as illegal and arbitrary.

Learned counsel for the petitioner submits that the petitioner questions the action of the

respondent in proceeding to effect the sale of her house on the ground that no notice was issued under Section 13(2) of the Act and passing of order under Section 13(4) of the Act.

Counter has been filed stating that notice under Section 13(2) of the Act sent to the petitioner returned unserved. Therefore, the respondent gave paper publication on 08.01.2004 and notice affixed on suit schedule property calling the petitioner to repay the entire due amount within sixty days from the date of receipt of the said notice failing which the respondent would be taking action under Section 13(4) of the Act.

Admittedly, an appeal lies under Section 17 of the Act against the proceedings under Section 13(4) of the Act. In view of the effective alternative remedy available to the petitioner, she is not entitled for any relief in this writ petition.

Having regard to the facts and circumstances of the case,
the writ petition is dismissed granting liberty to the petitioner to avail the alternative remedy by way of filing an appeal along with an application for grant of stay as and when measures are taken for possession under Section 13(4) of the Act.

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V. ESWARAIAH, J

February 6, 2006

DSK